

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ELAINE L. CHAO, Secretary of Labor, :
United States Department of Labor, :
Plaintiff, : CIVIL ACTION
: No. 08-CV-02725
v. : Hon. George W. Lindberg
DAVID J. JACOBS, NORTHWESTERN :
PLATING WORKS, INC., and :
NORTHWESTERN PLATING WORKS, INC. :
PROFIT SHARING PLAN, :
Defendants. :

PLAINTIFF'S MOTION FOR JUDGMENT BY DEFAULT
AGAINST DEFENDANTS

Now comes Elaine L. Chao, Secretary of Labor, United States Department of Labor (Secretary), Plaintiff in the above-styled action, and, pursuant to Federal Rule of Civil Procedure 55, moves this Court for a judgment by default against defendants David J. Jacobs (Jacobs), Northwestern Plating Works, Inc. (NPW), and Northwestern Plating Works, Inc. Profit Sharing Plan (Plan). In support of her motion, the Secretary states as follows:

1. Based on the failure by the defendants to file an answer to the Secretary's complaint, the court entered default on July 23, 2008.
2. As a result, the allegations of the Secretary's complaint are deemed admitted.
3. As a result of defendant Jacobs and NPW's violations of ERISA as set forth in the Complaint, the Plan suffered total losses of \$1,294,161.95, including associated lost opportunity costs (interest) calculated on the basis of the interest rates set forth in IRC

Section 6621, and compounded on a daily basis. See: Declaration of Investigator Brenda Willis in Support of Plaintiff's Motion For Judgment By Default, attached hereto and made a part hereof as Exhibit A.

WHEREFORE, having shown good cause, the Secretary moves that this Court enter a judgment:

- A.** Permanently enjoining defendants Jacobs and NPW from violating the provisions of Title I of ERISA;
- B.** Permanently enjoining defendant Jacobs and NPW from serving as fiduciaries to any ERISA-covered employee benefit plan;
- C.** Ordering the defendants to correct the prohibited transactions in which they engaged;
- D.** Ordering defendants Jacobs and NPW to restore \$1,294,161.95 to the Plan for losses for which defendants are liable as a result of their fiduciary breaches;
- E.** Awarding the Secretary the costs of this action; and

F. Ordering such further relief as is appropriate and just.

Respectfully submitted,

GREGORY F. JACOB
Solicitor of Labor

JOAN E. GESTRIN
Regional Solicitor

s/Ruben R. Chapa

RUBEN R. CHAPA
Trial Attorney

Office of the Solicitor
U.S. Department of Labor
230 S. Dearborn St., Room 844
Chicago, Illinois 60604
Telephone:(312)353-6993

Attorneys for Elaine L. Chao,
Secretary of Labor, United States
Department of Labor,
Plaintiff

CERTIFICATE OF SERVICE

I certify that one copy of the foregoing **Plaintiff's Motion for Judgment by Default Against Defendants** and proposed **Judgment** has been served this 1st day of August, 2008 on the individuals listed below via first class mail:

David J. Jacobs
261 Blackhawk Road
Riverside, Illinois 60546-2301

Northwestern Plating Works, Inc.
c/o David J. Jacobs
261 Blackhawk Road
Riverside, Illinois 60546-2301

Northwestern Plating Works, Inc. Profit Sharing Plan
c/o David J. Jacobs
261 Blackhawk Road
Riverside, Illinois 60546-2301

s/Ruben R. Chapa
RUBEN R. CHAPA
Attorney

U.S. Department of Labor
One of the Attorneys for
the Secretary

EXHIBIT A

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DECLARATION OF BRENDA WILLIS IN SUPPORT
OF SECRETARY'S MOTION FOR JUDGMENT BY DEFAULT AGAINST
DEFENDANTS

I, Brenda Willis, declare as follows:

1. I am an investigator employed by the Chicago Regional Office of the Employee Benefits Security Administration (EBSA), United States Department of Labor, stationed at 200 W. Adams, Chicago, Illinois.

2. In the course of my duties with EBSA, I was assigned the duty of investigating the Northwestern Plating Works, Inc. Profit Sharing Plan (Plan), to determine whether any violations of Title I of the Employee Retirement Income Security Act of 1974, as amended, had occurred or were about to occur.

3. Based on bank and plan documents, I computed that, from June 29, 2001 through February 6, 2005, defendants David J. Jacobs and NPW misappropriated \$853,000.00 in Plan assets.

4. In addition, I have computed lost opportunity costs in the amount of \$441,161.95. The lost opportunity costs were computed through August 1, 2008, using Internal Revenue Code 6621 interest rates, and they continue to accrue.

Pursuant to 28 U.S.C. Sec.1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 28, 2008.

s/Brenda Willis
BRENDA WILLIS
EBSA INVESTIGATOR

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DEFAULT JUDGMENT AGAINST DEFENDANTS

Plaintiff Elaine L. Chao, Secretary of Labor, United States Department of Labor (Secretary), having filed her complaint, Defendant David J. Jacobs (Jacobs), Northwestern Plating Works, Inc. (NPW); Northwestern Plating Works, Inc. Profit Sharing Plan (Plan), having been duly served with a copy of the complaint and summons; defendants having failed to plead or otherwise defend within the time prescribed by law; default of defendants having been entered by the Court on July 23, 2008; and amount owed by defendants Jacobs and NPW having been verified by the attached declaration of Brenda Willis; now, therefore upon application of the Secretary and for cause shown,

JUDGMENT IS HEREBY ENTERED against the defendants in accordance with the prayer of the complaint in the above-styled action; and it is:

ORDERED, ADJUDGED, AND DECREED that:

- A. Defendants Jacobs and NPW are permanently enjoined from violating the provisions of Title I of ERISA;
- B. Defendants Jacobs and NPW are permanently enjoined from serving as fiduciaries to any ERISA-covered Plan;
- C. Defendants Jacobs and NPW are hereby ordered to correct any prohibited transactions in which they engaged or for which they are liable, including disgorgement of any profits derived therefrom;
- D. Defendants Jacobs and NPW are hereby liable for the total amount of \$1,294,161.95 to the Plan, including lost opportunity costs, for losses resulting from fiduciary breaches committed by defendants Jacobs and NPW or for which they are liable and are hereby immediately ordered to restore all such amounts which have not yet been restored to the Plan.
- E. The Secretary is hereby awarded the costs of this action.

Dated: This _____ day of _____, 2008.

**HONORABLE GEORGE W. LINDBERG
UNITED STATES DISTRICT COURT JUDGE**